REMARKS

Claims 1–17 were pending. Claims 1–17 where rejected. Claims 11–16 are amended to correct minor typographical errors. Claim 17 is cancelled. Reconsideration and withdrawal of the rejections is respectfully requested.

Rejections Under § 103

Claims 1–17 were rejected as obvious in view of U.S. Patent 6,714,611 to Du et al ("Du") combined with U.S. Patent 6,640,338 to Shibata ("Shibata") and U.S. Reissue Patent RE38,600 to Mankovitz ("Mankovitz"). Reconsideration and withdrawal of these rejections is based on the following remarks, which address only independent claim 1. Each of the remaining claims either depends from claim 1 or includes similar limitations and is thus not addressed in detail as each is allowable for at least the reasons outlined herein.

It is the examiner's burden to establish a *prima facie* case of obviousness. MPEP § 2142. A *prima facie* case of obviousness is established if: (1) there is some suggestion or motivation to combine the references, (2) there is a reasonable expectation of success, and (3) the combination teaches or suggests all the claim limitations. Examiner's proposed combination fails at least two of these prongs. Specifically, there is no motivation to combine at least the Shibata reference with Du, and, even if the combination proposed by examiner is made, the combination still fails to teach or suggest each limitation of claim 1.

Claim 1 is drawn to "a method of maintaining distributed time in a network." The method of claim 1 requires seven steps, several of which are neither taught nor suggested by Examiner's proposed combination of Du, Shibata, and Mankovitz.

- *Entering The Time ... On A First Timekeeping Device*

The first method step of claim 1 requires "entering the time using an input mechanism on a first timekeeping device." Examiner contends that this is inherently taught in Du and also refers to Du at col. 3, ll. 11–12 and col. 4, ll. 48–52. However, Du contains no teaching or suggestion that the input device may be used for inputting time. At col. 3, ll. 9–25, Du clearly teaches that the network nodes include a user interface "via which the user data is supplied and read out." This user data is generated by "electrical circuit elements in

the network node." The only example of such "electrical circuit elements" is a video codec. Thus the user interface is used to input information into or receive information from a video codec. However, there is no reason to believe that the input of a video codec is a time, as required by claim 1.

Similarly, Examiner's citation of col. 4, ll. 48–52 as evidence for teaching or suggestion of "entering the time using an input mechanism on a first timekeeping device" is not well founded. This passage merely teaches that a central network node receives some form of time data from a user master network node. This passage may suggest the second method step of claim 1, namely "sending the time form said first timekeeping device to said primary timekeeping entity," although Applicant does not so concede. However, it is clear that this passage bears no relation to "entering the time ... on a first timekeeping device."

Not only is no teaching or suggestion of this required method step not found, either expressly or inherently, in Du, it cannot be found in Shibata and/or Mankovitz. Because the combination proposed by Examiner fails to teach or suggest one of the required method steps of claim 1, rejection of claim 1 as obvious in view of this combination is improper.

- *Broadcasting a Time Update ... Every T1 Seconds*

The deficiencies of the Du/Shibata/Mankovitz combination are not limited to the first method step of claim 1; the proposed combination also fails to teach the third method step, which requires: "broadcasting a time update from said primary timekeeping entity to all other timekeeping entities, said broadcast repeating every T1 seconds...." Neither Du, nor Shibata, nor Mankovitz, separately or in combination, teach or suggest this limitation.

Examiner points to Du at col. 4, ll. 16–19, col. 5, ll. 59–61 and col. 6, ll. 1–7 as providing this teaching. At col. 4, ll. 16–19, Du does teach that "time data is ... received ... by the central network node and is subsequently distributed to all network nodes...." However, at col. 4, ll. 13–16, Du notes that this time data is transmitted "*asynchronously with respect to the radio synchronization signals*" (emphasis added). Because the time data is asynchronous, Du contains no teaching or suggestion that the "time data" is transmitted every T1 seconds, *i.e.*, at fixed, regular intervals, as required by claim 1. Therefore, the "time data" cannot be the broadcast time update required by the third step of claim 1.

112-0018US Response to 1st OA.doc

6

PAGE 7/10 * RCVD AT 9/19/2005 11:07:28 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/30 * DNIS:2738300 * CSID:8324462424 * DURATION (mm-ss):03-34

Moreover, the radio synchronization signals cannot be the broadcast time update required by the third method step of claim 1. Du expressly notes that "a series of radio synchronization signals may occur at irregular instants." Du at col. 4, ll. 4–6. Furthermore, the very passages cited by Examiner, *i.e.*, col. 5, l. 59–col. 6, l. 7, make clear that the radio synchronization signal is not transmitted at a fixed interval. Specifically, this passage makes clear that the radio synchronization signal is transmitted at each of a fixed number (*q*) of frames, but the frames may vary in length, thus precluding the signal from being transmitted at fixed time intervals, *i.e.*, every T1 seconds. Therefore, the radio synchronization signals cannot be the time update broadcast every T1 seconds required by claim 1.

This missing limitation, *i.e.*, broadcasting a time update ... every T1 seconds," cannot be found in Shibata and/or Mankovitz, either separately or in combination. Thus the combination proposed fails to teach or suggest the third method step of claim 1, providing a separate and independent basis for patentability of claim 1 over the combination of references cited.

- *Receiving Said Time Update ... and Starting a Counting Device...*

Examiner concedes that the fourth method step, *i.e.*, "receiving said time update at a second timekeeping entity and starting a counting device upon said receipt" is not taught by Du. Examiner proposes Shibata to supply this missing limitation. There are many problems with this proposal. First, Shibata does not teach receiving a time update and starting a counting device upon said receipt. Second, it appears that the Examiner is failing to consider the invention as a whole. Third, there is no suggestion or motiviation to combine Shibata with Du.

Shibata appears to teach having a microprocessor give a series of pulses to a watchdog timer so that if a pulse is not received within a given time the watchdog timer can determine that the microprocessor has failed and can reset the microprocessor. Shibata further appears to teach that if the microprocessor does not receive a desired input within a given period of time, it can suspend the pulses provided to the watchdog timer thereby causing the system to be reset. Nowhere does Shibata contain any teaching or suggestion of "receiving said *time update* ... and starting a counting device." In fact, Shibata teaches that

the information received to trigger the counting device is television signals or other cable TV network commands. Therefore Shibata fails to teach or suggest the missing limitation.

Moreover, the fact that Shibata is unrelated in any way to synchronization of clocks suggests that Examiner has failed to consider the invention of claim 1 as a whole, and has rather attempted to find isolated method steps in various disparate references. The law is clear that an invention is obvious only if the whole invention, and not merely the differences between the claimed invention and the prior art are obvious. *See*, MPEP § 2141.02. Here, Examiner has not shown that the totality of the method recited in claim 1 is obvious from the combination of references, but merely that a part of one step that is missing from the primary reference can be found in a totally unrelated reference.

Finally, one skilled in the art would not have been motivated to combine Shibata with Du to supply the missing limitation of receiving a time update and starting a timer. The mere fact that Shibata involves resetting a timer, which is part of the fourth method step of claim 1, is not enough. Shibata relates to detecting equipment failures in a cable TV network and automatically resetting the equipment, for example, when a microprocessor freezes up. Conversely, Du relates to, among other things, synchronizing radio clocks across a radio network. The unrelated nature of these two problems suggests that it is inappropriate to combine Shibata with Du.

- *Checking the Status of the Counting Device Every T2 Seconds and Determining the Elapsed Time Since Said Second Timekeeping Device Received Said Time Update*

Again, Examiner has conceded that one of the required steps of the method of claim 1 is not found in the primary reference Du. Examiner proposes to supply this missing step from Shibata. However, as with the preceding limitation, Shibata does not disclose the whole limitation and Examiner's proposal indicates a failure to consider the invention as a whole and to consider the appropriateness of combining the references from non-analogous arts.

As noted above, Shibata merely discloses a timer that resets a microprocessor based system in the event the timer is not reset by a pulse from the microprocessor within a predetermined time frame. This does not include all the required elements of the referenced method step, which include determining how long it has been since the device received said

112-0018US Response to 1st OA.doc

8

PAGE 9/10 * RCVD AT 9/19/2005 11:07:28 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/30 * DNIS:2738300 * CSID:8324462424 * DURATION (mm-ss):03-34

time update. Because of the absence of this limitation, this basis of rejection is inappropriate.

In view of these arguments, it is respectfully submitted that all pending claims are now in condition for allowance. Reconsideration and withdrawal of the rejections discussed herein and a notice of allowance is therefore requested.

* * * * *

Respectfully submitted,
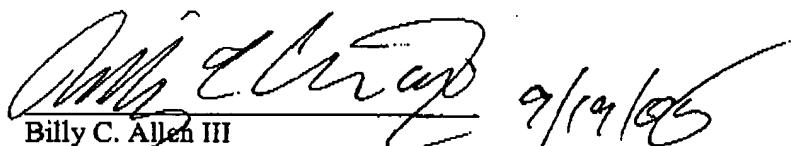
September 19, 2005
Date

Billy C. Allen III
Reg. No. 46,147

CUSTOMER NO. 29855

Wong, Cabello, Lutsch,
   Rutherford & Brucculeri, L.L.P..
20333 State Hwy 249, Ste 600
Houston, TX 77070
Voice 832/446-2409
Fax 832/446-2424

112-0018US Response to 1st OA   9

PAGE 10/10 * RCVD AT 9/19/2005 11:07:28 AM [Eastern Dayfight Time] * SVR:USPTO-EFXRF-6/30 * DNIS:2738300 * CSID:8324462424 * DURATION (mm-ss):03-34